

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

JIMMIE STEPHENS,	:	
Petitioner,	:	
	:	
v.	:	C.A. No. 24-160 WES
	:	
CITIZENS BANK OF R.I., et al.,	:	
Respondents.	:	

REPORT AND RECOMMENDATION

Patricia A. Sullivan, United States Magistrate Judge.

Now pending before me is Plaintiff's motion for leave to appeal in forma pauperis ("IFP"). ECF No. 20. Because the motion should be denied, I am addressing it by report and recommendation. See United States v. Monteiro, C.R. No. 15-48WES, 2022 WL 1439080, at *1 (D.R.I. May 6, 2022), accepted by text order (D.R.I. May 23, 2022); Keselica v. Wall, No. CA 07-224 ML, 2007 WL 2126518, at *1 (D.R.I. July 23, 2007) (denial of IFP motion is functional equivalent of dismissal; magistrate judge should issue report and recommendation for final decision by district court).

This Court has previously ruled that Plaintiff is a "three-strikes litigant," and that this case does not fall into any exception to the three-strikes bar on IFP status. ECF No. 14 at 2-3. Accordingly, the Court previously denied his IFP motions, holding that "Stephens may not proceed IFP in this action under § 1915 and, therefore, his two Motions for IFP, ECF Nos. 2, 6, are DENIED." Id. In his new IFP motion, which seeks leave to proceed on appeal IFP, Plaintiff has failed to present anything to address this deficiency. Further, § 1915 expressly applies to IFP for appeal. 28 U.S.C. § 1915(g) ("In no event shall a prisoner . . . appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while

incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted) (emphasis supplied); Crooker v. Burns, Civil Action No. A06-30007-PBS, 2010 WL 3781877, at *5 n.2 (D. Mass. Sept. 21, 2010) (“Court will not grant leave to proceed on appeal in forma pauperis because [plaintiff] is a three-strikes litigant under 28 U.S.C. § 1915(g)”). Accordingly, I recommend that the new IFP motion (ECF No. 20) be denied.

Any objections to this report and recommendation must be specific and must be served and filed with the Clerk of the Court within fourteen days of service of this report and recommendation. See Fed. R. Civ. P. 72(b); DRI LR Cv 72. Failure to file specific objections in a timely manner constitutes waiver of the right to review by the District Court and the right to appeal the District Court’s decision. See Brenner v. Williams-Sonoma, Inc., 867 F.3d 294, 297 n.7 (1st Cir. 2017); Santos-Santos v. Torres-Centeno, 842 F.3d 163, 168 (1st Cir. 2016).

/s/ Patricia A. Sullivan
PATRICIA A. SULLIVAN
United States Magistrate Judge
August 9, 2024